



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**FILED**

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In the Matter of the Application of PacifiCorp  
(U 901 E) for Approval of its 2023 Energy Cost  
Adjustment Clause and Greenhouse Gas-Related  
Forecast and Reconciliation of Costs and Revenue.

Application No. 22-08-001  
(Filed August 1, 2022)

**PARTIAL SETTLEMENT REGARDING PROPOSED GHG PROGRAM COSTS AND  
RELATED CUSTOMER CLIMATE CREDITS**

December 9, 2022

## **PARTIAL SETTLEMENT REGARDING PROPOSED GHG PROGRAM COSTS AND RELATED CUSTOMER CLIMATE CREDITS**

PacifiCorp d/b/a Pacific Power (PacifiCorp), the California Farm Bureau Federation (CFBF) and the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) (together “Settlement Parties”) offer to partially settle the *Application of PacifiCorp (U 901 E) for Approval of its 2023 Energy Cost Adjustment Clause and Greenhouse Gas-Related Forecast and Reconciliation of Costs and Revenue* (“Application”), on the following terms and conditions, which will become effective on the date of a Final Order by the California Public Utilities Commission (“CPUC” or “Commission”) approving this Partial Settlement Regarding Proposed GHG Program Costs and Related Customer Climate Credits (“Settlement”).

### **DEFINITIONS**

The following definitions are provided to allow the Commission and the Parties to understand the nature of the events that gave rise to the Application and the resulting Settlement.

“Application” - PacifiCorp’s application for CPUC approval of its 2023 Energy Cost Adjustment Clause and Greenhouse Gas-Related Forecast and Reconciliation of Costs and Revenue, docketed as Application (A.) 22-08-001.

“California Climate Credit” - A credit received by PacifiCorp’s eligible customers, derived from revenue from PacifiCorp’s sale of Greenhouse Gas (GHG) Emissions Allowances (allocated by California Air Resources Board (ARB) on behalf of their retail customers) at auction.

“Cap and Trade Program” - Established in 2006 by Assembly Bill (AB) 32 to reduce GHG emissions to 1990 levels by 2020, the Cap and Trade program is a market-based emission trading mechanism by which each year ARB sets a limit (a “cap”) on the number of allowances (pollution permits) available in a year. ARB directly allocates some allowances at no cost to entities required to participate in the Cap and Trade Program, while others are available for purchase. After each compliance period, participating entities must surrender to ARB allowances or other compliance instruments equal to their covered emissions during each compliance period. Electric investor-owned utilities (IOUs) are required to consign all ARB-allocated allowances within the year they are allocated to ARB’s quarterly auctions and use the proceeds to benefit ratepayers in accordance with ARB’s Cap-and-Trade Regulation and as directed by the CPUC. This source funds the customer climate credits to eligible customers and certain Clean Energy/Energy Efficiency (CEEE) programs, less some revenue to cover GHG Administration Expenses and Customer Outreach Costs.

“Customer Outreach Costs” - Costs associated with PacifiCorp’s outreach to customers providing information about the Cap and Trade Program.

“Energy Cost Adjustment Clause (ECAC)” - PacifiCorp was granted authority by the Commission to implement an ECAC starting in 2007, in order to allow for timely and efficient recovery of its net power costs (NPC). The ECAC application is filed annually on August 1, and to-date, the Commission has approved PacifiCorp’s annual ECAC applications. On October 16, 2014, the Commission issued Decision (D.)14-10-033, directing all utilities, beginning in 2015, to file their annual GHG applications as part of their Energy Resource Recovery Account or ECAC Application.

“GHG Administration Expenses” - Costs PacifiCorp incurs through the administration of the GHG Cap and Trade Program, driven primarily by the cost to issue California Climate Credit checks to customers with a surplus balance.

“GHG Emissions Compliance Instruments (GHG Compliance Instruments)” - PacifiCorp must meet its compliance obligations through the procurement and surrender of compliance instruments (allowances and/or offsets) for any covered GHG emissions under the Cap and Trade Program. An allowance or offset is typically defined as the right to emit one ton of carbon dioxide (CO<sub>2</sub>) or its equivalent in other GHGs.

“GHG Allowance Revenues” - Revenue from the auction of ARB’s allocated GHG allowances to PacifiCorp on behalf of its retail customers, returned to certain eligible customers in the form of California Climate Credits.

“GHG Compliance Cost (GHG Surcharge)” - A surcharge that recovers the costs for the procurement of GHG Compliance Instruments for its retail compliance obligation under California’s Cap and Trade Program.

## RECITALS

The following recitals are provided to allow the Commission and the Parties to understand the nature of the events that gave rise to the Application and the resulting Settlement.

1. In 2006, the California Legislature passed Assembly Bill (AB) 32, the Global Warming Solutions Act, which required California to develop regulations that will reduce GHG emissions to 1990 levels by 2020 (Cap and Trade Program).
2. The Cap and Trade Program, administered by the California Air Resources Board (ARB), is one element of achieving this goal. ARB encourages the reduction of GHG emissions by placing a cap on the amount of GHG emissions a facility can emit. This is regulated through the implementation of GHG Compliance Instruments.
3. Under California’s Cap and Trade Program, starting in 2013, ARB allocated PacifiCorp and other California electric utilities allowances on behalf of their customers. PacifiCorp is required to sell all of its allocated GHG allowances at auction and return the revenue from the sale to its eligible customers, less some revenue to cover GHG Administration Expenses, Customer Outreach Costs and fund energy efficiency programs. The revenue is returned to residential and small business customers through the California Climate Credit paid twice a year in April and October.

4. PacifiCorp and other California electric utilities must also buy a sufficient number of GHG Compliance Instruments to cover their required annual compliance obligation under the program. The costs for procuring GHG compliance instruments is recovered in customers' rates.
5. On December 20, 2012, the Commission issued D.12-12-033, which, among other things, adopted a methodology for allocating the revenue from the allocated GHG allowances to eligible customers and directed utilities to record GHG emissions compliance costs and estimated GHG allowance revenues to certain balancing accounts.
6. On October 16, 2014, the Commission issued D.14-10-033, directing all utilities, beginning in 2015, to file their annual GHG applications as part of their ECAC Application. D.21-08026 updates D.14-10-033, specifically, the methodology for calculating GHG compliance costs.
7. On August 1, 2022, PacifiCorp filed Application 22-08-001 requesting approval of its 2023 ECAC rates, authorized as part of PacifiCorp's 2005 general rate case (approved by D.06-12-011). The 2023 ECAC Application requested, among other things, approval to update both the GHG Surcharge that recovers the costs for the procurement of GHG compliance instruments for its retail compliance obligation under California's Cap and Trade Program and the California Climate Credit that returns revenue from the sale of the allocated GHG allowances to eligible customer classes, consistent with D.12-12-033, D.13-12-041 and D.14-10-033. The total amount of GHG Compliance Cost to be recovered in rates in 2023 is approximately \$21.6 million, based on the forecast 2023 costs, plus a true-up related to actual costs for prior years. This amount is adjusted to account for franchise fees and uncollectibles at PacifiCorp's current factor. The impact of the proposed change to the GHG Compliance Cost is an overall rate increase of \$10.7 million.
8. PacifiCorp requests authorization to update the GHG Surcharge effective upon the filing of a Tier 1 Advice Letter by PacifiCorp within 30 days of a Commission decision approving this Settlement.
9. PacifiCorp also requests authorization to distribute to eligible customers the California Climate Credit. The amount to be distributed consists of: (1) a true-up related to actual GHG Allowance Revenue through May 31, 2022, and related interest; (2) a forecast of 2023 GHG Allowance Revenue; (3) a true-up related to actual Customer Outreach Costs and GHG Administration Expenses through May 31, 2022; and (4) a forecast of Customer Outreach Costs and GHG Administration Expenses for 2023; and (5) funds set aside for energy efficiency programs developed under AB 693.
10. The GHG Allowance Revenue, less GHG Administration Expenses and Customer Outreach Costs and funding for energy efficiency programs, is to be returned to PacifiCorp's residential and small business customers through the semi-annual on-bill California Climate Credit distributed in April and October of each year. The total amount of the proposed California Climate Credit to be distributed in 2023 is approximately \$23.7 million. Consistent with D.21-08-026, the proposed residential and small business semi-annual per-customer California Climate Credit for 2023 is \$268.56.

11. If no party objects to the proposed GHG rates and climate credits, hearings may not be necessary to address these issues. The Application and the supporting appendices, testimony, and exhibits constitute a sufficient record for the Commission to rule on PacifiCorp's GHG Emission Allowance costs and Climate Credits in this ECAC without the need for hearings.
14. PacifiCorp, Cal Advocates, and the CFBF have agreed to support this Settlement.
15. The Settlement Parties held a settlement conference call on December 1, 2022, as required by Rule 12.1(b) with due notice to all parties to the proceeding. The settlement call was recessed when Cal Advocates was unable to participate. The call was reconvened on December 9, 2022 and Cal Advocates participated in that call. All parties, including the Cal Advocates, the California Farm Bureau, and PacifiCorp waived the 7 day notice requirement so that the settlement conference could be held on short notice.
16. The Settlement Parties would like to settle this issue as soon as possible in order to effectuate the GHG Surcharge and avoid delays in distribution of California Climate Credits. Timely distribution would not be possible if approval of the GHG costs and credits is delayed until the conclusion of hearings on other issues in the ECAC case.

**ARTICLE I**  
**RECORD OF PROCEEDING**

- 1.1 In support of this partial settlement agreement, the Settlement Parties request that the following documents be admitted as evidence and entered into the record of this proceeding:
  - a. The Application, and the testimony and exhibits of PacifiCorp served in this proceeding, Attachments A through X to the Application:
    - i. Attachment A - Exhibit PAC/400: Direct Testimony of Zepure Shahumyan
    - ii. Attachment B - Confidential Exhibit PAC/401
    - iii. Attachment C - Confidential Exhibit PAC/402
    - iv. Attachment D - Confidential Exhibit PAC/403
    - v. Attachment E - Confidential Exhibit PAC/404
    - vi. Attachment F - Confidential Exhibit PAC/405
    - vii. Attachment G - Confidential Exhibit PAC/406
    - viii. Attachment H - Confidential Exhibit PAC/407
    - ix. Attachment I - Confidential Exhibit PAC/408
    - x. Attachment J - Confidential Exhibit PAC/409
    - xi. Attachment K - Exhibit PAC/500: Direct Testimony of Selyna Bermudez
    - xii. Attachment L - Exhibit PAC/501
    - xiii. Attachment M - Exhibit PAC/502
    - xiv. Attachment N - Exhibit PAC/503
    - xv. Attachment O - Exhibit PAC/504

- xvi. Attachment P - Exhibit PAC/600: Direct Testimony of Anthony B. Worthington
- xvii. Attachment Q - Exhibit PAC/601
- xviii. Attachment R - Exhibit PAC/602
- xix. Attachment S - Exhibit PAC/603
- xx. Attachment T - Exhibit PAC/700: Direct Testimony of Judith M. Ridenour
- xxi. Attachment U – Exhibit PAC/701
- xxii. Attachment V - Exhibit PAC/702
- xxiii. Attachment W - Confidential Exhibit PAC/703
- xxiv. Attachment X - Exhibit PAC/704
- xxv. Attachment Y - Exhibit PAC/705
- xxvi. Attachment AA – Confidential Exhibit PAC/706
- xxvii. Attachment AB – Exhibit PAC 707

b. This Settlement.

- 1.2 The Settlement Parties stipulate to the following facts and request that they be included in the record of this proceeding:
- a. The approval of PacifiCorp’s update to both the GHG Surcharge that recovers the costs for the procurement of GHG Emission Allowances for its retail compliance obligation under California’s Cap and Trade Program, and the California Climate Credit that returns revenue from the sale of GHG Emission Allowances to eligible customer classes, as reflected in its Application, is in the public interest and will result in reasonable rates.

## **ARTICLE II**

### **TERMS OF THE SETTLEMENT**

- 2.1 The Settlement Parties agree that given the totality of the circumstances, including this Settlement Agreement and the facts described in 1.2(a) above, the approval of PacifiCorp’s update to both the GHG Surcharge that recovers the costs for the procurement of GHG Emission Allowances for its retail compliance obligation under California’s Cap and Trade Program, and the California Climate Credit that returns revenue from the sale of GHG Emission Allowances to eligible customer classes, as reflected in its Application, is in the public interest.
- 2.2 The Settlement Parties agree that PacifiCorp’s GHG Surcharge should be effective upon the filing of a Tier 1 Advice Letter by PacifiCorp within 30 days of a Commission decision approving this Settlement.
- 2.3 The Settlement Parties agree that PacifiCorp should be authorized to allocate its California Climate Credit; the amount to be distributed consisting of: (1) a true-up related to actual GHG Emission Allowance revenue through May 31, 2022, and related interest; (2) a forecast of 2023 GHG Emission Allowance revenue; (3) a true-up related to actual Customer Outreach Costs and GHG Administration Expenses through May 31, 2022; and

(4) a forecast of Customer Outreach Costs and GHG Administration Expenses for 2023; and (5) funds set aside for energy efficiency programs developed under AB 693.

- 2.4 The Settlement Parties agree that the GHG Emission Allowance revenue, less GHG Administration Expenses, Customer Outreach Costs, and funding for energy efficiency programs, is to be returned to PacifiCorp’s residential and small business customers through the semi-annual on-bill California Climate Credit distributed in April and October of each year. The total amount of the proposed California Climate Credit to be distributed in 2023 is approximately \$23.7 million. Consistent with D.21-08-026, the proposed residential and small business semi-annual per-customer California Climate Credit for 2023 is \$268.56. Consistent with Schedule No. NEMVS-139 Virtual Net Energy Metering for Solar Multifamily Affordable Housing Program (SOMAH) and previous ECAC Applications, PacifiCorp requests the Commission to authorize PacifiCorp to continue allocating ten percent of GHG allowance revenues to support SOMAH programs plus true-up amounts as ordered by the Commission.<sup>1</sup>
- 2.5 Nothing in this Settlement, either express or implied, should be construed as agreement among the Settlement Parties as to any other issues addressed in the ECAC proceeding.
- 2.6 The Settlement Parties request that the Commission approve this Settlement by issuance of a Final Order, authorizing the specific actions set forth above.

### **ARTICLE III APPROVALS**

#### **3.1 Settlement Effective Date**

This Settlement will become effective upon issuance by the Commission of a Final Order approving this Settlement without modification or condition or, if modified or conditioned, upon its acceptance as so modified by the Settlement Parties as provided further below. For purposes of this Settlement, a Commission order will be deemed a Final Order when the last date for filing an application for rehearing has expired and no application is filed by that date, or if any request for rehearing is filed, as of the date on which rehearing is denied.

#### **3.2 Confidentiality of Settlement Communications**

This Settlement is submitted on the condition that, if the Settlement does not become effective in accordance with this Article III, it will not constitute any part of the record in this proceeding or be used for any other purpose. The communications among the Settlement Parties that have produced this Settlement have been conducted on the explicit understanding that they were undertaken subject to Rule 12.6 of the Commission’s Rules of Practice and Procedure, and the rights of the Parties with respect thereto are not impaired by this Settlement.

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<sup>1</sup> D.17-12-022; In re PacifiCorp 2019 ECAC Application, A.18-08-001; In re PacifiCorp 2020 ECAC Application, A.19-08-002; In re PacifiCorp 2021 ECAC Application, A.20-08-002; and In re PacifiCorp 2022 ECAC Application, A.21-08-004.

### 3.3 Rejection or Modification

If this Settlement is rejected or modified in any material respect, the Settlement Party(ies) adversely affected thereby may, upon written notice to the other Parties within twenty (20) days thereafter, withdraw from this Settlement. If any Settlement Party exercises its right of withdrawal under this section, any other Settlement Party may, upon written notice to the other Parties within twenty (20) days thereafter, withdraw from this Settlement. If the Commission's approval of this Settlement is conditioned on the modification of this Settlement or on any other condition, such modification or condition will be considered to be accepted or not opposed unless any Settlement Party provides such written notice within the twenty-day period.

## **ARTICLE IV MISCELLANEOUS TERMS**

### 4.1 No Admissions

Agreement to or acquiescence in this Settlement does not constitute an admission by any Settlement Party that any allegation or contention made by any Settlement Party in this proceeding is true or valid. This Settlement is made upon the express understanding that it constitutes a negotiated offer of settlement and, except as otherwise expressly provided for herein, no Settlement Party or the Commission will be deemed to have approved, accepted, agreed to, or consented to any ratemaking or other legal principle or policy associated with this Settlement.

### 4.2 No Change to Regulatory Requirements or Obligations

Nothing contained in this Settlement relieves PacifiCorp of any requirements or obligations set forth in past, current, or future Commission orders or regulations.

### 4.3 Not Precedential in Any Further Proceedings

This Settlement will not be cited as an example of precedent, nor will it be deemed to bind any Settlement Party (except in any proceeding to enforce this Settlement or as otherwise expressly provided for herein), in any future proceeding, including, but not limited to, any CPUC proceeding or any other public utility commission proceeding in another state, and will not be deemed precedential or prejudicial to any Settlement Party's rights.

### 4.4 Applicable Standard of Review

CPUC Rule of Practice and Procedure 12.1(d) provides that the Commission will not approve a settlement, whether contested or not, unless the settlement is "reasonable in light of the whole record, consistent with law, and in the public interest." The Settlement Parties agree that this standard applies to the Commission's review of this Settlement.

4.5 Counterparties

This Settlement may be executed by the use of separate signature pages for each counterparty.

Dated: December 9, 2022

DOWNEY BRAND, LLP  
Michael B. Day  
Adam Pearse  
455 Market Street, Suite 1500  
San Francisco, California 94105  
Telephone: (415) 848-4800  
Facsimile: (415) 848-4801  
Email: mday@downeybrand.com

Signed:



Attorneys for PacifiCorp

PACIFICORP  
Zachary Rogala  
825 NE Multnomah Street, Suite 2000  
Portland, Oregon 97232  
Telephone: 435-319-5010  
Email: zachary.rogala@pacificorp.com  
Attorney for PacifiCorp

THE PUBLIC ADVOCATES OFFICE at the  
California Public Utilities Commission  
BY: Linda Serizawa  
SIGNATURE: /s/Linda Serizawa  
TITLE: Deputy Director for Public Advocates Office  
DATE: December 2, 2022

CALIFORNIA FARM BUREAU FEDERATION  
BY: Karen Norene Mills  
Kevin Johnston  
SIGNATURE: /s/Karen Norene Mills  
2600 River Plaza Drive Sacramento, California 95833  
Telephone: (916) 561-5655  
Facsimile: (916) 561-5691  
E-mail: kmills@cfbf.com

Attorneys for California Farm Bureau Federation